

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7145 OF 2008

(Arising out of S.L.P. (C) No.28180 of 2008)

Madhav @ Mahadev

...Appellant(s)

Versus

Sindhu Patil and Anr.

...Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

By the impugned order, High Court dismissed Regular First Appeal preferred against decree without considering oral and documentary evidence adduced on behalf of the parties. It is well settled that, in appeal against decree, the First Appellate Court is itself required to consider oral and documentary evidence adduced by the parties and the same having not been done, the impugned order is fit to be set aside on this ground alone.

Accordingly, the appeal is allowed, impugned order rendered by the High Court is set aside and the matter is remitted to the High Court to dispose of first appeal in accordance with law after giving opportunity of hearing to the parties.

[B.N. AGRAWAL]

.....J.

[G.S. SINGHVI]

.....J.

**New Delhi,
December 05, 2008.**